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6 *Attorneys for Plaintiff*

7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9 GINA GARCIA NAVARRETE,

10 CASE NO: 2:18-cv-01805-GMN-NJK

11 Plaintiff,

12 vs.

13 POLY-WEST, INC., et al.,

14 Defendants.

15 **PLAINTIFF'S SECOND MOTION TO  
EXTEND TIME FOR SERVICE OF  
PROCESS PURSUANT TO F.R.C.P. 4(M)**

16 COMES NOW, Plaintiff GINA GARCIA NAVARARETE, by and through her counsel,  
17 the law firm of Hatfield & Associates, Ltd., and files this Motion to Extend Time for Service of  
18 Process pursuant to F.R.C.P. 4(m). This motion is made and based upon the pleadings and  
19 papers on file herein, the attached Memorandum of Points and Authorities and the Declaration of  
20 counsel.

21 Dated this 12<sup>th</sup> day of April 2019.

22 **HATFIELD & ASSOCIATES, LTD.**

23 By: /s/ Trevor J. Hatfield  
24 Trevor J. Hatfield, Esq. (SBN 7373)  
703 South Eighth Street  
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26 *Attorneys for Plaintiff*

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2  
**MEMORANDUM OF POINTS AND AUTHORITIES**

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4  
I.

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6  
Plaintiff moves for an Order briefly extending the time for service of the Complaint and  
7  
8  
Summons on Defendants, [ECF No. 15] based on F.R.C.P. 4(m). The Court had previously  
9  
ordered that service of the Complaint be effected within sixty days' time. [ECF No. 14]  
10  
11 Plaintiff has good cause for the extension of the time period, and even absent good cause the  
12  
13 Court has discretion to extend the time period. Out of an abundance of caution, Plaintiff requests  
14  
15 an extension on both grounds. Plaintiff requests another two weeks' time to effect service.  
16

17 Plaintiff has good cause for an extension of the time for service. Plaintiff filed her (over  
18  
19 two hundred page) Complaint pro se. Counsel has amended her Complaint and has filed the  
20  
21 Amended Complaint but has not had contact with Plaintiff to review the Amended Complaint.  
22  
23 Moreover, an additional issue that has created an impediment to effectuating service is that  
24  
25 Plaintiff is not a native English speaker and Plaintiff did not request a summons for Defendant so  
26  
27 Plaintiff must receive a signed summons from the Clerk of the Court before effecting service.  
28 Plaintiff requests a few weeks' time to have Plaintiff review the Amended Complaint, overcome  
any language barriers that may exist, and make any revisions, if necessary, before serving  
Defendant.

29  
II.

30 Upon a plaintiff's failure to serve a complaint within 90 days, pursuant to FRCP 4(m),  
31  
32 failure to serve does not automatically require dismissal, courts distinguish between justified  
33  
34 delay or "good cause" and excusable neglect. *See, Lemoge v. U.S.* 587 F.3d 1188, 1198 (9<sup>th</sup> Cir.  
35  
36 2009).

37 Upon a showing of justified delay, the district court must grant a plaintiff an extension  
38 for "an appropriate period." *Id.* If good cause is not shown, the district court has the option of

1 exercising its discretion by excusing the delay and issuing an order that directs that service be  
2 completed within a specified additional period of time. *Id.*

3 Pursuant to the *Lemoge* case, a plaintiff may be required to show excusable neglect,  
4 defendant's lack of prejudice, and plaintiff's severe prejudice if the complaint is dismissed. In  
5 this case, Plaintiff will suffer severe prejudice if this case is dismissed, as this is an employment  
6 tort case and as the statute of limitations may have expired as to Plaintiff's 90-day deadline of 42  
7 U.S.C. § 2000e-16(c). Most telling, however, is the lack of prejudice to Defendant; Defendant's  
8 counsel has refused to accept service on behalf of Defendant.

9  
10 As Plaintiff and her counsel have experienced unforeseen difficulties but have not been  
11 dilatory in seeking to effectuate service, Plaintiff respectfully requests that the Court grant  
12 Plaintiff's motion.

13 Dated this 12<sup>th</sup> day of April 2019.

**HATFIELD & ASSOCIATES, LTD.**

14  
15 By: /s/ Trevor J. Hatfield  
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20  
21 Attorneys for Plaintiff

22 IT IS SO ORDERED.

23  
24   
25 UNITED STATES MAGISTRATE JUDGE  
26 DATE: April 15, 2019